

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**In Re:**

**AREDIA® AND ZOMETA® PRODUCTS  
LIABILITY LITIGATION**

**(MDL No. 1760)**

**This Document Relates to:  
*Manarite, et. al*, 3:10-cv-01202**

**No. 3:06-MD-1760**

**Judge Campbell/Brown**

**ORDER**

Plaintiff Dominic Manarite died on April 12, 2013. (MDL Doc. 7012, Ex. 1; Related Case 16) A suggestion of death was filed on September 23, 2013. (MDL Doc. 7012; Related Case 16)

Counsel filed a motion on December 19, 2013 to substitute the late Mr. Manarite's wife, Jan Manarite, provisionally in this case "pending her filing a Petition for Administration and the entry of an Order Appointing Personal Representative." (MDL Doc. 7240; Related Case 17) Defendant Novartis Pharmaceuticals Corporation (NPC) filed a response in opposition to the motion on December 20, 2013 arguing that the motion should be denied because counsel has failed to comply with the Case Management Order (CMO) as it pertains to substitution/provisional substitution in this MDL. (MDL Doc. 7246; Related Case 18) Counsel did not reply to NPC's response, and the time to do so has passed.

NPC's argument is well taken – counsel has failed to comply with the CMO as it pertains to substitution/provisional substitution. Consequently, the motion to substitute Ms. Manarite provisionally as the plaintiff in this case (MDL Doc. 7240; Related Case 17) is **DENIED**.

Counsel is granted an extension of time until February 14, 2014 to comply with the substitution/provisional substitution provisions of the CMO. If a further extension of time is required, counsel shall inform the Magistrate Judge not later than February 14, 2014 of the actions

taken to date, the specific difficulties causing the delay, and when compliance with the CMO might reasonably be expected. Counsel is forewarned that failure to comply with the CMO and this order could result in dismissal of this case for failure to comply with the orders of the court, for failure to prosecute, and/or appropriate sanctions may be imposed.

**ENTERED** this 15<sup>th</sup> day of January, 2014.

/s/Joe B. Brown  
Joe B. Brown  
United States Magistrate Judge